

California Rehabilitation Oversight Board Minutes December 16, 2009 Meeting

The California Rehabilitation Oversight Board (C-ROB) met in open session on December 16, 2009, at California State University, Modoc Hall, Sacramento, California.

Board members: Present at the meeting was David Shaw, Inspector General (Chairman); Matt Cate, Secretary, Department of Corrections and Rehabilitation (CDCR); Debra Jones, Administrator, Adult Education Programs (Designee for Superintendent of Public Instruction); José Millan, Vice Chancellor, California Community Colleges (Designee for Jack Scott, Chancellor, California Community Colleges); Renée Zito, Director, State Department of Alcohol and Drug Programs; Stephen Mayberg, Director, Department of Mental Health; Susan Turner, Professor, University of California, Irvine (President of the University of California appointee); Bruce Bikle, Professor, California State University, Sacramento (Chancellor of California State University appointee); Gary Stanton, Sheriff, Solano County (Governor appointee); Loren Buddress, Retired Chief Probation Officer (Senate Committee on Rules appointee); and, William Arroyo, Regional Medical Director, Los Angeles County Department of Mental Health (Speaker of the Assembly appointee).

Office of the Inspector General staff: Barbara Sheldon, Chief Counsel; Laura Hill, C-ROB Executive Director; Ann Bordenkircher, C-ROB Secretary; and Jamie Sammut, C-ROB analyst.

Panel Presenters: Department of Corrections and Rehabilitation staff : Elizabeth Siggins, Chief Deputy Secretary (A), Adult Programs; Steven Chapman, Assistant Secretary, Office of Research; and Dave Lewis, Deputy Director, Fiscal Services.

J. Clark Kelso, Federal Receiver, California Prison Health Care Services.

Public Comments: David Warren, Lobbyist, Taxpayers for Improving Public Safety (TiPS); Susan Lawrence, M.D., Executive Director, The Catalyst Foundation; Gerald Daniel; Lyle Brown; Chuck Crumbley; Hellan Roth Dowden; Gary Pannett; Tom Stroud; John Kern; Cindy Greer; Roger White; Margaret Mercado; Marion House; Tommy Wickerd II; Alia Hartman; Diane Pendola; and Patrick Wilson.

Item 1. Call to Order.

Chairman Shaw called the meeting to order at 9:40 a.m.

Item 2. Introductions and Establish Quorum.

The Chairman introduced OIG staff, and the board members introduced themselves to the public. All board members were present.

Item 3. Review Agenda.

Chairman Shaw reviewed the agenda and advised the public that they would have an opportunity to provide comments at various times during the meeting.

Item 4. Review and Approve Minutes from September 2, 2009 Board Meeting.

On motion made and seconded, the September 2, 2009 minutes were unanimously approved.

Item 5. California Department of Corrections and Rehabilitation Budget Update and Item 6. Progress Report on Rehabilitation-Related Efforts from July to Present. Presentation on Rehabilitation Program Reductions.

Dave Lewis, Deputy Director, Fiscal Services advised that for fiscal year 09/10, the Department must manage a \$1.2 billion reduction, including a \$250 million reduction in funding for adult programs. Mr. Lewis and Ms. Siggins jointly presented an “Overview of CDCR’s Adult Rehabilitative Programs Budget Reduction” by way of PowerPoint® slides.

Elizabeth Siggins, Chief Deputy Secretary (A), Adult Programs stated that total cuts to the Department’s budget are \$1.2 billion, which includes a \$250 million reduction in funding to adult programs. The Budget Act contained provisional language on how to implement the reductions to rehabilitative programs. In following Provision 11 of the Budget Act, Ms. Siggins said the Department focused first on preserving programs most effective in reducing recidivism, then looked at achieving savings through more efficient operations, and prioritized participant placement into programs based upon risk, need, and time left to serve. The guidelines also required the Department to prioritize the elimination of vacancies first, maximize the number of offenders who have access to programs, and maximize the use of federal or other available funds.

Ms. Siggins explained the budget prior to the reductions to help put the cuts into context.¹ In explaining the reductions to Adult Programs, Ms. Siggins gave the following percentages: Education, reduced by 30%; Substance Abuse reduced by 40%; Assessments reduced by 40%, Headquarters reduced by 70%. Ms. Siggins said that there were no net reductions to Community Partnerships, stating that the Department is trying to maximize the volunteer programming wherever possible in that the Department spends only a very small amount of money to help sponsor volunteer programs. Ms. Siggins also discussed estimated program capacity versus estimated savings for the current year and future years.

Ms. Siggins went on to talk about the new academic models. She explained that there will still only be 27 students in the classroom, but the sessions reduced to 3 hours instead of the previous 6.5 hours, with instruction being 1-5 days per week, depending on grade level. Teaching assistants will provide lesson/program support, and inmate tutors will be used to provide one-on-one literacy.

Ms. Siggins stated that CDCR attempted to preserve vocational programs that have an OCE² approved curriculum that is not a subcomponent of a larger curriculum, is aligned with an industry-recognized certification, and can be completed within 12 months. Ms. Siggins said that the vocational programs must also have a positive job outlook based upon EDD data for vocations where there are at least 2,000 annual entry-level jobs with starting wages over \$15 per hour.

¹ Handout “California Department of Corrections and Rehabilitation Adult Program Proposed Reductions.”

² Office of Correctional Education

Ms. Siggins described changes to substance abuse programs as shortened to 90 days for 8,450 participants (rather than the previous 12,000 participants) and with aftercare treatment slots reduced by 35%.

Ms. Siggins concluded this portion of the presentation by acknowledging that CDCR is losing some very worthwhile programs but was encouraged that staff are working with the remaining resources to maximize capacity and effectiveness.

Mr. Lewis and Ms. Siggins answered board member questions relating to substances abuse treatment programs, after care treatment, cuts to parole services, and maintaining federal dollars. Of particular concern was whether the new programs with shortened classroom time and use of inmate tutors will be monitored for data, fidelity and recidivism rates.

Steve Chapman, Assistant Secretary, Office of Research responded to member questions relating to the Proof Project at CSP, Solano. He said data collection included looking at before and after outcomes not only for long-term outcomes like recidivism, but also short or intermediate outcomes such as how many GEDs were awarded, or how many graduated from school. Dr. Chapman stated that it has become more difficult to collect data as the target keeps moving. Dr. Chapman spoke briefly on information from the handout entitled "Learning Gains Data by Test Year" which reflects total number of enrollees, enrollees with paired tests, and the learning gains attained within the CDCR.

Public comments following Agenda Items #5 and #6 were received as follows:

Dr. Susan Lawrence was pleased to hear that the CDCR formally intends to increase participation of community-based volunteers. She stated that it is important that what is intended to be implemented actually happens on the ground. As a volunteer and observer, Dr. Lawrence does not believe that always occurs; with an organization as large as the CDCR, she states it must be difficult to find out exactly what is going on in the institution. Dr. Lawrence encouraged board members to read the communications directed to the board from prisoners, family, friends and supporters of the Honor Program. Dr. Lawrence said there must be a change in the culture of the CDCR to embrace rehabilitation and recognize that prisoners are people of inherent worth and value.

Gerald Daniel, a district bargaining unit representative for SEIU Local 1000, works at San Quentin. Mr. Daniel said that in most of the 33 state institutions, education is the largest occupier of time. When program hours are reduced, placing inmates on the yard or in their housing unit instead where they are unsupervised, is not constructive. He stated in the last two years, San Quentin has had a big increase in the number of GEDs produced, but he does not believe the Department collects that kind of information.

Lyle Brown, a 26-year employee of the Department, teaches inmates to develop skills so they can be successful upon parole. Mr. Brown believes that he and other mill and cabinet instructors have been wrongly evaluated. He stated that the Department did not have the information pertinent to make program closures. Mr. Brown said there are good programs being closed while some bad programs are being allowed to stay.

Chuck Crumbley, a literacy instructor, believes the new models will not reduce the recidivism rate, partly because you cannot expect to increase literacy by reducing inmate contact time. He believes the new model of replacing instructors with uneducated inmates as tutors will fail.

Hellan Roth Dowden, SEIU Local 1000, stated that CDCR has a \$10 billion budget and when reduced by 2 percent, chose to reduce the programming budget. She said that as of January 30, between 600 and 900 teachers will lose their jobs while the Department is saving 18,265 correctional officers, administrators, executives and medical personnel. Ms. Dowden encouraged the C-ROB to engage with the Legislature and with CDCR to become involved in questioning the decisions that have been made to the CDCR budget.

Gary Pannett, a 12-year HVAC vocational instructor, but involved with education for 30 years in schools and colleges, has some understanding of budget cuts. He said he believes the amount of turnover suggested by Ms. Siggins' report is caused by inmate assignments which causes inmates to be pulled out of educational classes. Mr. Pannett said institutional educators provide detailed information to OCE on a monthly basis, so the decision-makers at CDCR should have had that information. He believes accreditation under the new model may be difficult.

Tom Stroud, 17-year adult education teacher, said teachers also have a goal of giving quality education and he would like to have seen teachers included in the decision-making process.

John Kern, 25-year vocational instructor, believes instructors invest in inmates, parolees, and students to give hope and repair families – something that cannot be turned into data and numbers. Mr. Kern teaches landscaping. He states that when his students go out and succeed, they are not an entry-level salary - they are the supervisors, often bilingual, the technicians, or the pesticide applicators.

Cindy Greer, teacher, is concerned that the proposed models are not evidence based. Ms. Greer is also concerned that there may be less accurate TABE levels just so that inmates can get a week off their sentences. Ms. Greer stated in just the first two quarters of 2009, VSPW saw 90 GED graduates, 40 high school diplomas, three bachelor's degrees, 21 associate arts degrees, six paralegal certificates, 27 certificates of completion in business programs and over 300 vocational completions. She believes transformation happens with learning and knowledge through education.

Roger White, SEIU Local 1000, questions the benefit of laying-off 900 teachers and vocational instructors to save \$15 million. He also questions the Department's claim that adult programs headquarters budget is being cut by 70 percent when such a small fraction of staff from that area have been given layoff notices. Mr. White would like to see this addressed in the next C-ROB report. In closing, Mr. White mentioned that CDCR received federal stimulus dollars in 08/09 and wonders why that method could not be used again to save some of the teachers.

David Warren, Lobbyist, Taxpayers for Improving Public Safety, reiterated his request to the board to report to the Legislature that CDCR cannot meet the AB 900 benchmarks. Mr. Warren is also concerned about the use of inmate tutors, who are insufficiently educated or may quickly lose their motivation, and believes this should also be reported by C-ROB to the Legislature.

Item 7. California Prison Health Care Services Update.

J. Clark Kelso, Federal Receiver, presented an update on the progress made with respect to medical care issues in the California prison system by way of a PowerPoint® presentation.³ He began with an overview of three important court orders: (1) 2002 Stipulated Injunction that requires compliance with CDCR Medical Policies and Procedures consistent with the 8th Amendment; (2) 2006 Order Appointing the Receiver, which states that the receivership shall cease when the Court is satisfied that the State has the will, capacity and leadership to maintain a system of providing constitutionally adequate medical care services to class members; and (3) 2008 Order Approving Turnaround Plan, in which the court finds the Plan's six goals to be necessary to bring the system up to constitutional standards.

The Receiver spent some time discussing the Turnaround Plan progress covering Personnel (substantially complete); Access to Care-Custody Support (substantially complete); Clinical (30% complete); Information Technology (30% complete) and Facilities (5% complete).

Mr. Kelso explained that his office must frequently adjust its schedule in light of the moving budget. He states the office is conscious of the fact that there is a limited amount of money, so it becomes important to focus attention on the things that are most important in order to get the greatest return out of every dollar spent.

The Receiver stated that there is some difficulty in recruiting and hiring at a couple of institutions that are remotely located. He says this creates a long backlog of inmates who need to see primary care physicians. In the majority of institutions, a primary care model has been established so physicians have a group of known patients. With that in place, the next year will focus on improving chronic care. Improvements to the emergency medical response system are complete, while specialty care and hospitalization is three-quarters done. Cost containment was a big focus over the last year. The Receiver said that to date, a two-year audit has uncovered about \$6.5 million in either duplicate or unauthorized billings, and they are being fairly successful in recovering those.

Receiver Kelso engaged a third-party administrator to take over the process of reviewing and paying invoices. An electronic invoicing system should be in place in the near future.

Mr. Kelso touched on objective clinical measures concerning death reports within the institutions. Overall, the rate of death has decreased 13.3% over three years, while the rate of likely preventable deaths decreased by 72%.

Mr. Kelso discussed the OIG medical inspections⁴ within the institutions, stating that 14 of the 33 institutions have been completed. The inspected facilities received low scores in chronic care, clinical services, specialty services and diagnostic services. High scores received were in inmate transfers, clinic operations, staffing levels and training, pharmacy services, and emergency service.

³ End-of Year Report 2009, J. Clark Kelso, Federal Receiver, dated December 14, 2009

⁴ OIG reports may be found at www.oig.ca.gov

In concluding his update, the Receiver discussed the continuing roadmap to compliance, which includes the following: fund and finish the Turnaround Plan; clear hurdles and fund construction; improve medical inspection scores given by the OIG; maintain improvements in personnel, death reports and access to care programs; and, begin implementation of RAND “Quality Improvement Indicators.”

Mr. Kelso answered board member inquiries related to hiring of physicians and nurses, registry contracts, and electronic medical records.

Item 8. Board Discussion of Rehabilitation Program Reductions and C-ROB’s Oversight Role.

Chairman Shaw discussed the statutory requirement relating to C-ROB reports in that they must include findings on the effectiveness of treatment efforts, the rehabilitation needs of offenders, the gaps in rehabilitative services, and the levels of participation and success in those programs. Mr. Shaw stated that with the current CDCR budget cuts, the role of the board is more important than ever now that services will be reduced.

Comments from board members included the difficulty in understanding one’s role when things are so fluid. Statements emphasized the need to ensure successes in programming, that funds are used properly, and that some AB 900 goals are met.

Generally, board members stated that the C-ROB’s role to evaluate CDCR’s rehabilitation programs still exists irrespective of the federal court control over what is and is not done in Corrections and the Legislature’s failure to provide an adequate budget.

Public comment following Agenda Item #8:

Dr. Susan Lawrence stated that instead of focusing so much on data and professional expertise, the board may want to look at the culture of a broken system. She said that no matter how many evidence-based systems or programs are implemented, they will not work when human beings are put in situations where they are brutalized and dehumanized on a daily basis. Dr. Lawrence said that a missing voice on the board is the stakeholder – the prisoner’s voice.

David Warren stated that if the board is to have any credibility with the Legislature, it must inform the Legislature that CDCR cannot meet the standards established due to lack of funding, and that if the Legislature expects the standard to be met, it must put up the money.

Patrick Wilson stated that the legal system defines justice as proportional punishment, which is the same as revenge. He said that with that definition, the Legislature forms laws to punish the wrongdoer and that sets the tone for how they are treated. Mr. Wilson encouraged the board to advise the appropriate persons that the wrong principles are being used.

Item 9. Future Board Meeting Schedule.

Future meetings were previously scheduled for February 3 and March 3, 2010.

Item 10. Future Agenda Items.

Board members expressed a need to receive further information regarding the Governor's proposed budget, which is anticipated to be released on January 10, and to receive further updates from CDCR as to how the proposed budget affects rehabilitation programming.

Item 11. Public Comment.

Patrick Wilson stated that in order to get the desired outcome, one must use the real principles of law and justice which are not active in the current legal system. He believes that because no one will put this on the table for discussion, there is a lot of unnecessary trouble and expense occurring.

Dr. Susan Lawrence addressed the board concerning the Honor Program. She was pleased that the operational procedures were signed on October 23, 2009; however, it has not been implemented and the same issues continue to plague the program as it has before. Dr. Lawrence encouraged the C-ROB to read the many communications provided by prisoners, family members and other supporters that explain the current situation on the ground in the Progressive Programming Facility (formerly known as the Honor Program).

Marion House stated that the Progressive Programming Facility (PPF) is not being operated in accordance with the signed operating procedures. She said that while inmates not meeting the criteria have been identified, the Warden is having difficulty in finding locations for those inmates to be transferred. Programs such as Artists Serving Humanity, that provides a sense of self-worth was shut down. Ms. House emphasized that the PPF saves money. The program builds self-respect, self-esteem and the ability to rehabilitate, but with the current cuts, it is feared that it will take time and a lot of work to get the yard back to where it used to be.

Tommy Lee Wickerd II whose Dad lives at the PPF, earned a special day of fun by staying on the school's honor roll. He chose to spend that day by coming to the C-ROB meeting to thank the board for its help in keeping the PPF alive. He asked the board to watch over the program and make sure it runs like it used to. He closed by saying that prison is not where he wants his Dad to be, but if he has to be there, he wants him in a safer place where he can be proud of himself. The PPF provides that.

Alia Hartman is the daughter of a lifer inmate involved at the PPF. Ms. Hartman wanted to tell the Board that its decisions not only affect the convict, but also the family. In closing, she asked for continued support of PPF.

Diane Pendola thanked the Board for supporting the PPF. She believes that this time of budget crisis is an opportunity for proven cost savings through the PPF, which helps transform inmates returning to our communities. Through the PPF, hearts have been opened by compassion and caring, connecting with the human spirit in new ways and dedicated to healing wounds of the spirit they themselves have inflicted. Ms. Pendola encouraged the C-ROB to take every action necessary to make the PPF program a success, not only at Lancaster, but throughout the entire system.

Margaret Mercado does not believe the PPF to be an experiment, stating it has a track record of nearly ten years. She is requesting someone in the CDCR upper management to visit the PPF often to motivate staff and ensure PPF's health.

Item 12. Adjournment.

There being no further business, Chairman Shaw thanked board members, staff and the public for their participation and adjourned the meeting at 4:00 p.m.

C-ROB Secretary

Dated

(These Minutes are posted on the web at www.oig.ca.gov.)